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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/229,628	01/13/1999	YASUTAKA SAKAINO	OKI-4646.01	5685

7590 12/19/2001

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EXAMINER

CAO, PHAT X

ART UNIT	PAPER NUMBER
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2814

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/229,628

Applicant(s)

SAKAINO ET AL.

Examiner

Phat X. Cao

Art Unit

2814

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 November 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 6-15.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 3-5 and 16-21.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☒ The proposed drawing correction filed on 29 November 2001 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10. ☐ Other: \_\_\_\_\_

*Caomumdel*

PHAT X. CAO

PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Applicant argues that it is not obvious to combine Narita with Ando because Narita teaches the use of two-level wiring over the source region but not the drain region.

These arguments are not persuasive because Applicant cannot show nonobviousness by attacking references individually where the rejection is based upon a combination of references. In re Young, 403 F. 2d 754, 757, 159 USPQ 725, 728 (CCPA 1968). it should be noted that the rejection of the claimed invention is not based on anticipation, but rather, is based on obviousness. The Examiner relies on the combined teachings at Ando and Narita. Narita is not relied on for teaching the forming of two-level wiring over both the source/drain regions. Ando discloses the forming of two-level wiring over both the source/drain regions. Narita is relied on for showing that it was known to form the number of holes in the first level wiring group being different or more than the number of holes in the second level wiring group for preventing the breakdown of diffusion layer by limiting the current flowing through the number of holes in the first level wiring group. The Examiner thus regards the Applicant's assertions as constituting evidence that the Applicant has failed to consider as a whole the prior art teachings disclosed by the combining of the references.

The rejection of claims 16-21 under 35 U.S.C. 112, first paragraph, is withdrawn.